



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/057,075	01/23/2002	Steven D. McNeil	3862 P 002	3351

7590 03/06/2006

Roger H. Stein
Wallenstein & Wagner, Ltd.
53rd Floor
311 South Wacker Drive
Chicago, IL 60606-6630

EXAMINER

NGUYEN, DINH Q

ART UNIT	PAPER NUMBER
----------	--------------

3752

DATE MAILED: 03/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/057,075

Applicant(s)

MCNEIL, STEVEN D.

Examiner

Dinh Q. Nguyen

Art Unit

3752

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 October 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 and 10-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 and 10-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 7, 10, 14, 15 are rejected under 35 U.S.C. 102(b) as being anticipated by Sewell et al. (U.S. No. 3,938,441).

Sewell discloses a method of controlling wildfire using C3, C4 or others well known explosive (see column 3, line 29) to create firebreaks by firing ordnance into the canopy and the explosive can be applied by an aircraft (see column 1, line 39- column 2, line 15).

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-3, 7, 10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell et al. (U.S. No. 3,938,441).

Sewell discloses a method of controlling wildfire using C3, C4 or others well known explosive (see column 3, line 29) to create firebreaks by firing ordnance into the canopy and the explosive can be applied by an aircraft (see column 1, line 39- column

Art Unit: 3752

2, line 15). Therefore, it would have been obvious to one having ordinary skill in the art to have provided the method of controlling fire of Sewell with a way for controlling wildfire by create a back burn or mopping up wildfire by using explosive munition, since Sewell discloses of methods for clearing bushes and trees to create fire breaks as discloses in column 1, lines 39-46, thus to create a back burn or mopping up wildfire by using explosive munition is obvious with one skilled in the art.

5. Claims 1-3, 7, 10, 14, and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell et al. (U.S. No. 3,938,441) in view of Hammon.

Sewell et al. teaches all the limitations of the claims except for a method of controlling a wildfire by creating a fire line, a back burn and mopping up a fire. However, Hammon discloses a method of creating a fire line, a back burn or mopping up a fire as shown in figure 1 and stated in column 1, lines 6+. Therefore, it would have been obvious to one having ordinary skill in the art provided the method of controlling fire of Sewell with a way for controlling wildfire by create a fire line, a back burn or mopping up a fire. Doing so would provide a way to control a fire (see column 1, lines 6-12).

6. Claims 4-6, 11-13, 16-23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sewell in view of Johnson (U.S. No. 4,616,711) or Sewell et al. (U.S. No. 3,938,441) in view of Hammon and further in view of Johnson.

Sewell or Sewell et al. in view of Hammon teaches all the limitations of the claims except for a firebreak line perpendicular to the approach fire. However, Johnson discloses a method of controlling and preventing the spread of forest fire by creating break fire line 22 perpendicular and both flanks of the approach fire A. Therefore, it

would have been obvious to one having ordinary skill in the art to have provided the method of controlling fire of Sewell or Sewell et al. in view of Hammon with a firebreak line perpendicular to the approach fire as suggested by Johnson. Doing so would provide an efficient way to fight fires (column 1, lines 39-56).

With respect to claims 4-6, to use a tank, a truck or a car as a way to deliver explosive is well known within the art, and it would have been an obvious matter of design choice to a person of ordinary skill in the art.

With respect to claims 19, 20, ordnances in the forms of missiles or bullets is well known within the art of ordnances, and it would have been an obvious matter of design choice to a person of ordinary skill in the art.

Response to Arguments

7. Applicant's arguments filed 10/11/05 have been fully considered but they are not persuasive. The Sewell reference discloses of methods for clearing bushes and trees to create fire breaks as discloses in column 1, lines 39-46. Furthermore to create a fire line, a back burn or mopping up a fire is similar as to create a firebreak.

8. Applicant's arguments with respect to claims 1-7, 10-23 have been considered but are moot in view of the new ground(s) of rejection.

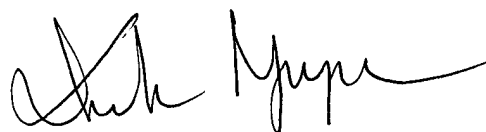
9. The Cook, and Weatherly et al. references are cited to show a method of creating a firebreak.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q. Nguyen whose telephone number is 571-272-4907. The examiner can normally be reached on Monday-Thursday 6:00-4:30.

Art Unit: 3752

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Scherbel can be reached on 571-272-4919. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Dinh Q. Nguyen', with a stylized, cursive script.

Dinh Q Nguyen
Primary Examiner
Art Unit 3752

dqn